

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Eichhorn et al.
Serial No. : 10/552,555
Filed : May 26, 2006

Art Unit : 3724
Examiner : Laura Michelle Lee
Conf. No. : 6680

Title : ELECTRICAL DEVICES WITH ASSOCIATED AUXILIARY DEVICES

Mail Stop Appeal Brief - Patents

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

BRIEF ON APPEAL

Appellants file this Appeal Brief under 37 C.F.R. §41.37, thereby perfecting the Notice of Appeal, which was filed on April 5, 2011. This Appeal Brief is in support of the appeal from the Non-Final rejection set forth in the Office Action mailed on January 6, 2011.

(1) Real Party in Interest

The real party in interest is Braun GmbH, which is wholly owned by Proctor & Gamble.

(2) Related Appeals and Interferences

There are no related appeals or interferences.

(3) Status of Claims

Claims 1, 3-7, 9-10, 12-32 are pending. Of these, claims 3, 5-7, 13-14, 16-17, 20-22 and 25-29 have been withdrawn and claims 1, 4, 9-10, 12, 15, 18-19, 23-24 and 30-32 are under non-final rejection, but have been at least twice rejected. Claims 1, 12 and 23 are the only independent claims. Claims 2, 8 and 11 have been canceled. The rejection of claims 1, 4, 9-10, 12, 15, 18-19, 23-24 and 30-32 is being appealed.

(4) Status of Amendments

All amendments have been entered.

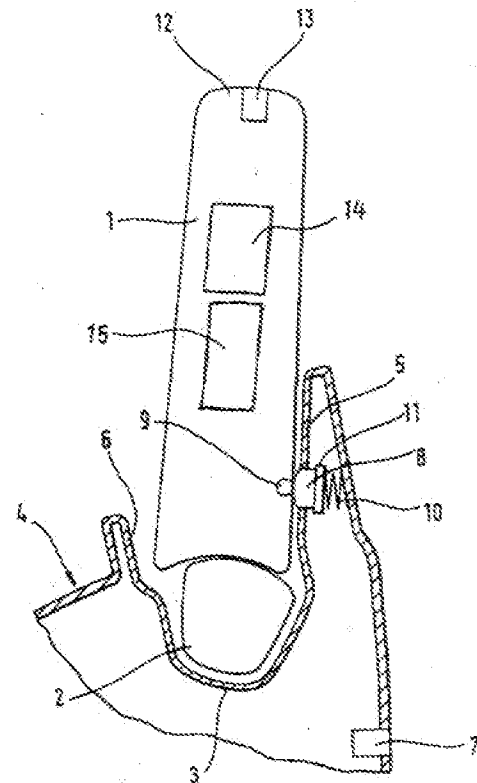
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(5) Summary of Claimed Subject Matter

The three independent claims each read on the single illustrated embodiment, shown at right.

Claim 1 recites an electric shaver system that includes both a dry shaving apparatus (1) and a cleaning and charging station (4) defining a receiving arrangement for receiving the dry shaving apparatus. The shaving apparatus has a shaving head (2), a first connector (9) configured to couple with an associated connector (8) of the cleaning and charging station to transmit charging energy and control signals between the apparatus and station while the apparatus is received in the station, and an additional connector (13), spaced from the first connector and configured to couple the dry shaving apparatus for receiving charging energy with the dry shaving apparatus removed from the cleaning and charging station.



Claim 12 recites, in combination, a handheld personal care appliance (1) and an associated auxiliary device (4). The personal care appliance (such as a shaving apparatus) has a housing, an electrical motor (15) contained within the housing, and a battery (14) electrically connected to the motor. The auxiliary device (such as a cleaning/charging station) defines a receptacle (3) configured to receive the personal care appliance therein. The housing of the personal care appliance includes a first connector (9) that couples with an associated connector (8) of the auxiliary device to transmit electrical or electromagnetic energy between the auxiliary device and the personal care appliance, and the personal care appliance includes an additional connector (13), spaced apart from the first connector, and configured to connect the battery to an auxiliary power source.

Claim 23 recites an electric shaver system that includes both a shaver (1) and a shaver cleaner (4). The shaver has a shaving head (2), an electrical motor (15) mechanically connected to the shaving head, and a battery (14) electrically connected to the motor. The shaver cleaner is

configured to hold a quantity of cleaning fluid and defines a trough-shaped receptacle (3) configured to receive the shaving head of the shaver therein. The shaver includes a first connector (9) that couples with an associated connector (8) of the shaver cleaner to transmit electrical or electromagnetic energy between the shaver cleaner and the shaver, as well as an additional connector (13), spaced apart from the first connector, configured to connect the battery to an auxiliary power source.

(6) Grounds of Rejection to be Reviewed on Appeal

(a) The office action does not list the claims that are the subject of the rejection made in paragraph 4, but it is believed from the status of claims and the other rejections that claims 1, 4, 9-10, 12, 15, 18-19, 23-24 and 30 have been rejected under 35 U.S.C. §103(a) as being obvious over Braun, U.S. Patent 5,614,030 ("Braun"), in view of Somers et al., U.S. Patent 3,283,185 ("Somers") and in further view of Chang, U.S. Patent 5,321,349 ("Chang").

(b) Claim 31 stands rejected under 35 U.S.C. §103(a) as being obvious over the same combination of Braun, Somers and Chang, and in further view of Daniels, U.S. Patent 3,710,224 ("Daniels").

(c) Claim 32 stands rejected under 35 U.S.C. §103(a) as being obvious over the same combination of Braun, Somers and Chang, and in further view of Hoser et al., U.S. Publication 2002/0069902 ("Hoser").

(7) Argument

(a) Obviousness over Braun + Somers + Chang

Not only is this combination of references the basis for the rejection of claims 1, 4, 9-10, 12, 15, 18-19, 23-24 and 30, but it is also the foundation to which additional references are added in the rejections of claims 31 and 32. Therefore, Appellants submit that if the non-obviousness of claims 1, 12 and 23 is understood properly in view of this 3-reference combination, the non-obviousness of the other claims will also follow.

The primary reference (Braun, the cover figure of which is reproduced on the next page) discloses an electric shaver system with a dry shaver and a cleaning and charging station (5) that receives the dry shaver. Braun's shaver has a connector at the end opposite the shaving head, for

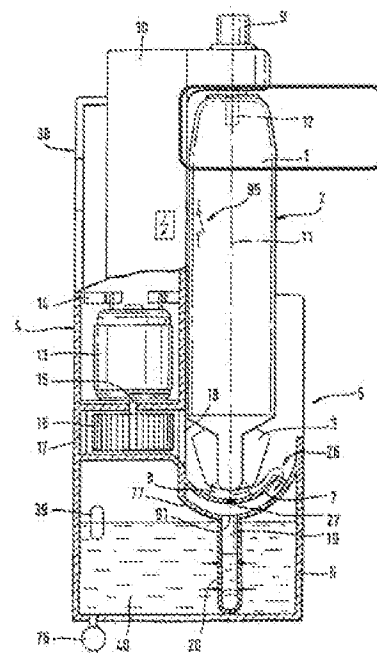
receiving contact means 12 (highlighted in the figure at right) for supplying power to the shaver.¹ In this manner, the shaver shown in Braun is not unlike any number of electric shavers that have a power cord receptacle at their lower end.

As acknowledged in the Office Action, Braun does not disclose or suggest adding a second connector, spaced from the one at the end of the shaver, for charging the shaver when it is removed from the cleaning and charging station. With respect to this limitation, the rejection points to Somers as showing a shaver with a receptacle for receiving a charging cord, and Chang as showing the idea of providing a plurality of sockets (on a power supply), and concludes that it

would have been obvious to one having ordinary skill in the art to combine the socket locations as shown by Braun and Somers onto a single electric shaver/body as taught by Chang *to increase the number of ways and stations that the electric shaver could be employed with to recharge the internal rechargeable battery*, especially as both locations were already known in the prior art, and thereby the shaver could be charged directly without the use of the cleaner apparatus.²

Appellants respectfully traverse this conclusion as not supported by the evidence and the disclosures of these three references, as reasonably understood.

Somers is characterized as disclosing "a battery operated electric shaver having a socket portion on the side of the electric shaver with prongs for receiving a cord adapted to be detachably connected therewith and to a 110-volt electric supply current of the convention form found in most buildings (i.e. a wall outlet)."³ Fig. 4 of Somers is reproduced on the next page, for reference. The socket 111 referenced in the quotation above is shown and described as being part of the casing 81 of a charger upon which the battery-operated shaver is mounted. The most reasonable correspondence of such a socket to the system being claimed would be to electrical

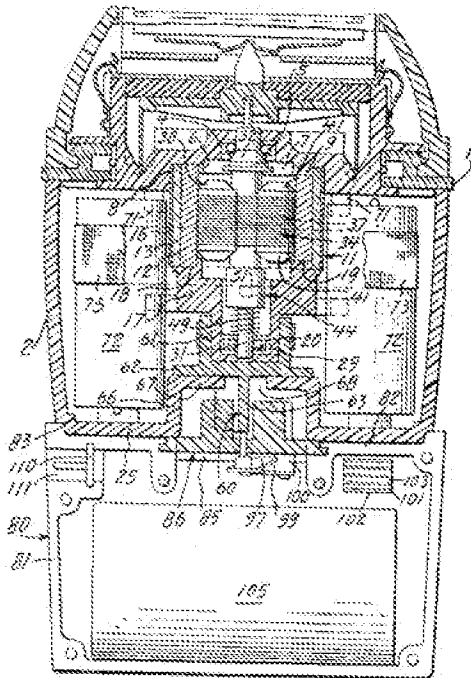


¹ See, e.g., Braun, col. 4, lines 53-58.

² Office Action, p. 4, italics added.

³ Office Action, p. 3, apparently paraphrased from Somers, col. 11, lines 40-46.

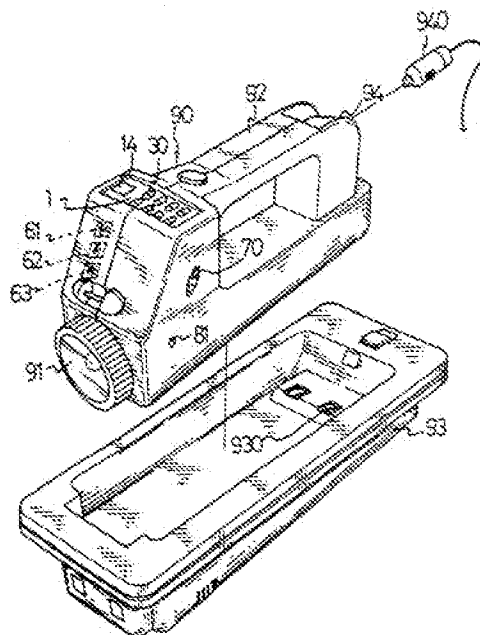
FIG. 4



connection 7 (see Appellants' figure above), to which a power cord is connected to supply power to the charging and cleaning station. However, even if one were to take this socket 111 as being on the shaver itself (assuming that one would be able to shave with the charger casing 81 still attached, for example), the result would simply be another shaver with a single connector, albeit one disposed on the side of the unit rather than into the bottom as in the primary reference. Nor do Somers or Braun provide any teaching that would have led the person of ordinary skill in this art to add a second charging connector to the Braun shaver, in lieu of, for example, simply configuring a power cord to connect directly into the connector already provided at the distal end of the Braun shaver, for charging the Braun shaver

when removed from the charging station.

Chang is directed to a portable DC power supply (that also apparently functions as a flashlight), "especially to a rechargeable power supply charged by a car."⁴ The principal purpose of the power supply is to supply different voltages while traveling. As shown in Fig. 1 (reproduced at right), Chang's handheld multi-purpose device is chargeable by being placed on a recharging socket 93 having charging contacts 930. Additionally, the power supply has (shown on the side of the device) an external power input socket 81 that allows an external DC power source to provide power for long term use.



⁴ Chang, col. 1, lines 7-8.

(i) *Chang would not have been considered by one of ordinary skill in this art, for teaching relevant to improving a shaving system or the like.*

Each cited reference must meet a two-step test to determine if it is analogous art and therefore properly asserted in an obviousness rejection. The first step is to determine whether the reference is "within the field of the inventor's endeavor".⁵ If not, the reference may still be pertinent if it is "reasonably pertinent to the particular problem with which the inventor was involved."⁶

The inventors define the field of endeavor, such as by their specification and claims.⁷ In this case, the specification is directed to personal care appliances, such as shavers or electric toothbrushes, and the illustrated embodiment is of a shaving system. The claims in issue all have preambles such as "an electric shaver system" or recite the combination of a handheld personal care appliance (such as a shaver or toothbrush) and an associated auxiliary device. Chang is not directed to anything within this field of endeavor.

Moreover, Chang also fails the second test, to which the Examiner has made no comment, because it is not a prior art reference which, "because of the matter with which it deals, would have commended itself to an inventor's attention in considering his problem."⁸ It is improper to define the "problem" broadly, in hindsight, in order to legitimize an improper reference citation.⁹ A reference directed to a different purpose than the invention would have provided less motivation or occasion to an inventor to have considered it.¹⁰ In this case, none of the various "objects" of Chang's invention, as listed in column 1 of Chang, would have given anyone of ordinary skill in this art the suggestion that Chang's teachings would be relevant to the design of a personal care appliance cleaning/charging system configured for use in a household environment with an associated appliance such as a shaver.

⁵ *In re Deminski*, 796 F.2d 436, 230 USPQ 313 (Fed. Cir. 1986).

⁶ *Id.*

⁷ *In re Clay*, 966 F.2d 656, 23 USPQ2d 1058 (Fed. Cir. 1992).

⁸ *In re Clay*, 966 F.2d 656, 23 USPQ2d 1058 (Fed. Cir. 1992).

⁹ To illustrate an example of an improperly broad problem formulation, in *In re Clay* the CAFC found that the patentee's field of endeavor was the "storage of refined liquid hydrocarbons," a field that tracks the claim preamble fairly well. They rejected as clearly erroneous the Examiner's and Board's broader statement of the field as "maximizing withdrawal of petroleum stored in petroleum reservoirs," a characterization that would have included the cited reference that dealt with in-ground storage of unrefined petroleum.

¹⁰ *Id.*

(ii) *Even if Chang would have been considered for possible improvements to a modified Braun system, it would not have led one of ordinary skill to the claimed invention.*

One thing that is missing from all of these cited references or their combination is any suggestion of providing one set of contacts that provides both charging and control signal communication, and another connector, separate from the combined charging/control contacts, for alternately charging the appliance.

Chang's device, it should be kept in mind, is a portable power supply configured to provide various DC voltages for recharging other equipment, with the device itself charged by a car while in a corresponding cradle. Chang's only stated reason for including a separate connector (in the form of external power input socket 81) is to "provide power when the Ni-Cd rechargeable battery set 80 [contained within the device] lacks power for long term use,"¹¹ presumably long-term use while detached from the cradle. But Braun's connector (at contacts 12) already provides a connection for receiving external power when Braun's shaver is removed from the cradle for long-term use. Therefore, it is not reasonable to suggest such a motivation for the proposed modification of Braun's shaver system. Nor is there anything else about Chang's disclosure that would have led someone to modify even the hypothetical Braun+Somers device to include two separate connectors, when the connector *already provided* on the Braun shaver was sufficient for all of the purposes alleged to motivate those of ordinary skill.

Even with hindsight, no reasonable explanation has been given why one of ordinary skill, seeking to improve upon Braun's system, would have been led by a rational examination of Somers and Chang to reach what Appellants claim as their invention. But it must be kept in mind that, difficult though it may be with an inventor's disclosure in mind, the prior art must be considered as it would have been at the time of the invention and without the benefit of such teaching.¹²

For this reason alone, the proposed combination of references does not present a *prima facie* case of obviousness against the pending claims.

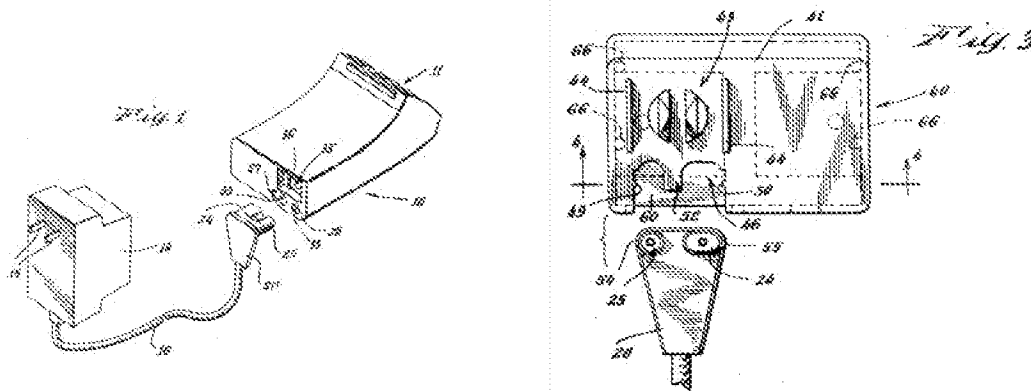
¹¹ Chang, col. 2, lines 18-22.

¹² "It is difficult but necessary that the decision maker forget what he or she has been taught . . . about the claimed invention and cast the mind back to the time the invention was made . . . , to occupy the mind of one skilled in the art who is presented only with the references, and who is normally guided by the then-accepted wisdom in the art." *W.L. Gore & Assoc., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 1552-53 (Fed. Cir. 1983).

(b) Unpatentable over Braun + Somers + Chang + Daniels

The rejection of dependent claim 31 adds Daniels as a fourth reference to the combination. As noted above, agreement that Braun+Somers+Chang does not render claim 1 obvious is sufficient to also find claim 31 allowable, as Daniels adds no teaching relevant to the deficiency of the combination of the first three references.

Daniels is cited as disclosing a shaver with rechargeable batteries that "can be re-energized by a power pack (14) which plugs into the shaver or alternatively into a stand which supports the shaver."¹³ Figures 1 and 3 of Daniels are reproduced below.



As pointed out in response to the earlier office action, Daniels' power pack 14 does not "plug into" or provide any electrical connection to the stand itself (see Fig. 3, above). Rather, the stand simply retains the L-shaped connector of the power cord in a suitably-shaped recess, such that the cord will plug directly into the input power connector of the shaver when the shaver is placed on the stand. Therefore, even were someone of ordinary skill to look to Daniel for an improvement of Braun's general device, the suggestion from Daniels would have been to provide in Braun's charger a means of retaining a power cord so that it would connect directly into the upper end of Braun's shaver while in the stand. This would not result in the invention as recited

¹³ Office Action, page 5.

in claim 31, as such a power cable would not be capable of *powering* the cleaning and charging station itself.

Thus, even combining four references the rejection does not present a *prima facie* case of obviousness with respect to claim 31.

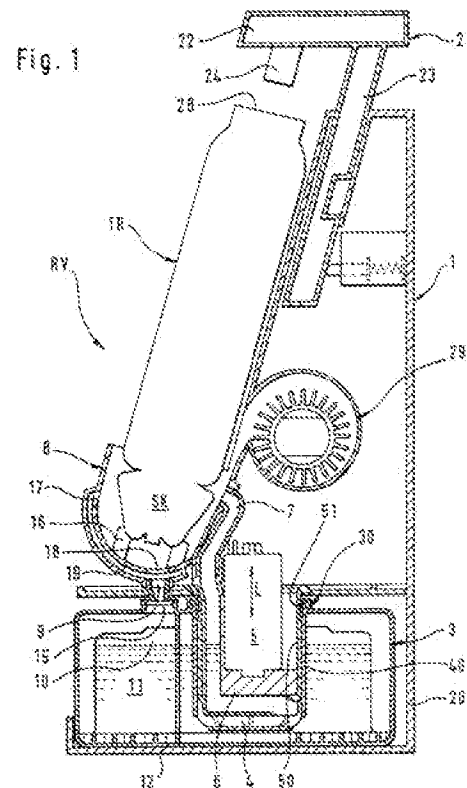
(c) Unpatentable over Braun + Somers + Chang + Hoser

The rejection of claim 32 similarly adds Hoser as a fourth reference to the combination of Braun+Somers+Chang. As with claim 31, agreement that Braun+Somers+Chang does not render claim 1 obvious is sufficient to also find this dependent claim allowable, as Hoser adds no teaching relevant to the deficiency of the combination of the first three references.

Claim 32 recites, *inter alia*, “a rear wall arranged to support the dry shaving apparatus in a leaning position, such that coupling of the first connector of the dry shaving apparatus with the associated connector of the cleaning and charging station is maintained by weight of the dry shaving apparatus leaning against the rear wall.”

Fig. 1 of Hoser (reproduced at right) shows a shaver cleaner with a wall angled with respect to the vertical, and with an associated shaver in an angled orientation. From this it is asserted in the rejection that one of ordinary skill would have provided a Braun+Somers+Chang system with a rear wall as recited in claim 32.

However, one of ordinary skill really interested in examining Hoser's disclosure would note that Hoser's shaver doesn't rest against the rear wall of the cleaner housing at all. Rather, Hoser's cleaner includes a “holding device 2” at its upper end, with a “retaining element 24” that is received in the connector 28 of the shaver to hold the shaver in position. This is consistent with how the device is illustrated in Hoser's Fig. 1, which shows the



opposing surfaces of the shaver and cleaner slightly spaced from one another.

Therefore, there is nothing about Hoser's system that would have suggested supporting a shaver against an inclined rear wall, so as to maintain an electrical coupling (as by contact pressure, as in Appellants' disclosure).

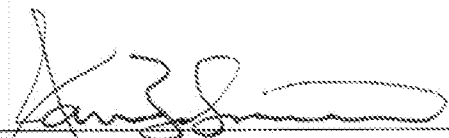
In summary, Appellants maintain that the obviousness rejections made against their claims are improper and ask that they be reversed.

The appeal brief and any extension fees are being paid concurrently herewith on the Electronic Filing System (EFS) by way of Deposit Account authorization. Please apply any necessary charges or credits to Deposit Account 06-1050, referencing the above attorney docket number.

Respectfully submitted,

Date:

September 1, 2011



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Appendix of Claims

1. An electric shaver system comprising:

a dry shaving apparatus including a shaving head; and

a cleaning and charging station defining a receiving arrangement for receiving the dry shaving apparatus;

wherein the dry shaving apparatus includes a first connector configured to couple with an associated connector of the cleaning and charging station to transmit charging energy and control signals between the apparatus and station while the apparatus is received in the station; and

wherein the dry shaving apparatus includes an additional connector, spaced from the first connector and configured to couple the dry shaving apparatus for receiving charging energy with the dry shaving apparatus removed from the cleaning and charging station.
4. The system according to claim 1, wherein the additional connector is an electrical plug-type connection.
9. The system according to claim 1, wherein the first connector is arranged in close proximity to the shaving head and the additional connector is arranged on an end of the dry shaving apparatus at a remote distance from the shaving head.
10. The system according to claim 4, wherein the plug-type connection comprises an appliance socket.

12. In combination, a handheld personal care appliance and an associated auxiliary device; wherein

the personal care appliance comprises:

a housing;

an electrical motor contained within the housing; and

a battery electrically connected to the motor;

the auxiliary device defining a receptacle configured to receive the personal care appliance therein;

wherein the housing of the personal care appliance includes a first connector that couples with an associated connector of the auxiliary device to transmit electrical or electromagnetic energy between the auxiliary device and the personal care appliance; and

wherein the personal care appliance includes an additional connector, spaced apart from the first connector, and configured to connect the battery to an auxiliary power source.

15. The combination according to claim 12, wherein the additional connector is an electrical plug-type connection.

18. The combination according to claim 12, wherein the personal care appliance comprises a dry-shaving apparatus including a shaving head and the auxiliary device is a cleaning and charging station.

19. The combination according to claim 18, wherein the first connector is arranged in close proximity to the shaving head and the additional connector is arranged on an end of the dry shaving apparatus at a remote distance from the shaving head.

23. An electric shaver system comprising:

a shaver having:

a shaving head;

an electrical motor mechanically connected to the shaving head; and

a battery electrically connected to the motor; and

a shaver cleaner configured to hold a quantity of cleaning fluid and defining a trough-shaped receptacle configured to receive the shaving head of the shaver therein;

wherein the shaver includes a first connector that couples with an associated connector of the shaver cleaner to transmit electrical or electromagnetic energy between the shaver cleaner and the shaver; and

wherein the shaver includes an additional connector, spaced apart from the first connector, and configured to connect the battery to an auxiliary power source.

24. The electric shaver system according to claim 23, wherein the additional connector is an electrical plug-type connection.

30. The system according to claim 1, wherein the first connector is configured to transmit charging energy, control signals and information between the dry shaving apparatus and

the cleaning and charging station while the dry shaving apparatus is received in the cleaning and charging station.

31. The system according to claim 1, wherein the cleaning and charging station has a socket for receiving a power cable to supply power to the cleaning and charging station, and wherein the additional connector of the dry shaving apparatus is configured to receive the power cable, such that the power cable can be selectively used for powering the cleaning and charging station and for powering the dry shaving apparatus separate from the cleaning and charging station.

32. The system according to claim 1, wherein the cleaning and charging station is configured to vertically receive the shaving head of the dry shaving apparatus in an open trough void of obstructions, the trough defined in part by a rear wall arranged to support the dry shaving apparatus in a leaning position, such that coupling of the first connector of the dry shaving apparatus with the associated connector of the cleaning and charging station is maintained by weight of the dry shaving apparatus leaning against the rear wall.

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Evidence Appendix

None.

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Related Proceedings Appendix

None.